



TTAB

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INCLUDING PATENT, TRADEMARK, COPYRIGHT
AND UNFAIR COMPETITION MATTERS

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DANIEL P. CHERNOFF
(1935-1995)

December 12, 2008

Our File: 3772.0010

United States Patent and Trademark Office
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

#74013761

Re: Cancellation Proceeding – No. 92050160
M. Kashani v. Richards Homewares, Inc.

Dear Sir or Madam:

Enclosed for filing is an Answer, filed in triplicate, together with a return acknowledgment postcard.

To avoid any delays in filing the Answer, the Commissioner is authorized to charge payment of any required fees not included herewith, or credit any overpayment related thereto, to Deposit Account No. 03-1550.

Sincerely,

Charles D. McClung
Reg. No. 26,568
Attorney for Registrant

CDM/lma
Enclosures



12-15-2008

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

M. KASHANI,

Petitioner,

v.

RICHARDS HOMEWARES, INC.,

Registrant.

Cancellation No. 92050160

ANSWER

In answer to Petitioner's petition, Richards Homewares, Inc. (hereinafter "Registrant") states as follows:

1. Registrant denies that Petitioner has been damaged by the maintenance of Trademark Registration No. 1,651,852. Registrant lacks knowledge and information sufficient to form a belief as to the truth or falsity of the remainder of the allegations in paragraph 1, and denies these allegations on that basis.

2. Registrant lacks knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 2, and denies each and every allegation on that basis.

3. Registrant admits that the date of first use in Registration No. 1,651,872 is January 31, 1990. Registrant denies that Petitioner is the true proprietor of this trademark. Registrant lacks knowledge and information sufficient to form a belief as

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to the truth or falsity of the remainder of the allegations contained in paragraph 4 and denies these allegations on that basis.

4. Registrant denies the allegations in paragraph 4.

5. Registrant denies the allegations in paragraph 5.

AFFIRMATIVE DEFENSES

6. While the date of first use shown in Registration No. 1,651,872 is believed to be the date Registrant itself first used the mark in the form shown in the registration, Registrant acquired rights in the MOTHAWAY trademark by assignment from a third party who used the MOTHAWAY trademark for moth repellent long before Petitioner's alleged date of first use.

7. Petitioner's allegation in paragraph 1 that he has been damaged because of the existence of Trademark Registration No. 1,651,872 because it prevents him from registering the MOTHAWAY trademark is inconsistent with his allegation in paragraph 5 that MOTHAWAY has become generic for these goods.

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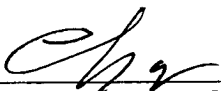
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WHEREFORE, Registrant prays for dismissal of this Cancellation proceeding, and for such other and further relief as the Board deems just and reasonable.

DATED this 12th day of December, 2008.

CHERNOFF, VILHAUER, McCLUNG
& STENZEL, LLP

By: 
Charles D. McClung
Of Attorneys for Registrant
601 S.W. Second Avenue
Portland, OR 97204-3157

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this ANSWER was served on Applicant by first-class mail, postage prepaid, on December 12, 2008, addressed as follows:

M. Kashani
P.O. Box 8129
Rancho Santa Fe, California 92067


Dated: December 12, 2008


Charles D. McClung

CERTIFICATE OF MAILING

I hereby certify that this ANSWER is being deposited with the United States Postal Service as first-class mail in an envelope addressed to: United States Patent and Trademark Office, Trademark Trial and Appeal Board, P.O. Box 1451, Alexandria, VA 22313-1451, on December 12, 2008.

Dated: December 12, 2008


Charles D. McClung